

# **State of Alaska FY2009 Governor's Operating Budget**

## **Department of Natural Resources Title Acquisition & Defense Component Budget Summary**

**Component: Title Acquisition & Defense**

**Contribution to Department's Mission**

To acquire, accept, convey, and defend title to land or an interest in land on behalf of the State of Alaska. This is a basic function of any state in the Union, but is particularly significant to Alaska as we received the largest federal land grant ever awarded to a state. Clear title is critical for Alaska's state land to support resource development, revenue generation, conservation, public use and to provide land for the settlement and the development of Alaska. Article VIII, Section 6 of the Constitution of Alaska sets forth the policy concerning natural resources, which reads: "State Public Domain...The legislature shall provide for the selection of lands granted to the State by the United States, and for the administration of the state public domain." The public expects that the state will acquire and defend its valuable assets of land and the associated resources the same as any prudent person would manage his or her own personal assets.

**Core Services**

This component funds five core services:

- 1) the acquisition of state land;
- 2) the transfer of land out of state ownership;
- 3) the defense of assertions against state ownership interests;
- 4) the production of title reports to facilitate resource development and land disposals; and
- 5) the creation and maintenance of hard copy and electronic records to document these actions.

These functions are performed by the Realty Services Section and the Public Access and Defense (PAAD) Unit of the DNR Division of Mining, Land and Water.

State land and its related resources such as timber, minerals and oil and gas form the economic base for the State of Alaska. At statehood, the U.S Congress granted Alaska up to 106.2 million acres of land under a variety of federal land entitlements. The state has yet to receive title to approximately 12 million acres of this statehood entitlement and awaits survey by the federal government to over 60 million acres.

In addition to statehood entitlements the state acquires fee title or partial interests in other state lands by purchase, donation, escheat, condemnation, and grants under special congressional legislation for public purposes such as public facilities, state parks and refuges. This also includes Exxon Valdez Oil Spill acquisitions. Acquisitions of less than fee title interest include surface easements, airspace easements, airport clear zone easements, leases, fish weir permits, conservation easements, equitable servitude, etc. These acquisitions are generally tracked under the Other State Land (OSL) and Limited State Holding (LSH) programs.

Additionally, under the equal footing doctrine, at Statehood Alaska received title to approximately 65 million acres of shorelands, tidelands, and submerged land, which includes land under inland waterbodies and marginal seas.

Defending state title against challenges is a fundamental responsibility of the state. Realty Services and Public Access staff reviews all federal decisions involving land transfers to the state and conveyances to Alaska Native Claims Settlement Act (ANCSA) corporations to ensure that state and public interests are protected. With regard to ANCSA conveyances, the Federal Bureau of Land Management (BLM) decisions are reviewed to ensure that access to public land or water and state title is not compromised by the decision. Staff adjudicates requests from the federal government to reconvey lands wrongfully conveyed to the state in order to fulfill individual Native Allotment claims. Staff also responds to litigation like the past Mental Health Trust Lands Settlement and the current School Trust litigation. And finally, staff provide technical support to the Attorney General's Office when needed to file appeals to federal decisions or to respond to ownership challenges to state owned uplands, submerged lands and tidelands.

| End Result   | Strategies to Achieve End Result |
|--|----------------------------------|
| <b>A: Acquire, defend, and maintain clear title to the land promised at Statehood.</b> | <b>A1: Acquire Land</b>          |

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| <p><u>Target #1:</u> Each year, receive an additional 2,000,000 acres of the remaining entitlement of state land.<br/> <u>Measure #1:</u> Acres of state land entitlement received.</p> <p><u>Target #2:</u> Obtain 5 new Recordable Disclaimers of Interest from BLM to clear the cloud of title on state owned submerged land.<br/> <u>Measure #2:</u> Number of Recordable Disclaimers of Interest issued by BLM.</p> | <p><u>Target #1:</u> Each year, receive an additional 2,000,000 acres of the remaining entitlement of state land.<br/> <u>Measure #1:</u> Acres of state land entitlement received.</p> <p><u>Target #2:</u> Acquire approximately 5,000 acres of land for public purposes, through purchases, donations, exchanges or other means authorized under statute under the Other State Lands and Limited State Holdings programs.<br/> <u>Measure #2:</u> Total number of acres of land acquired for public purposes not part of original statehood entitlement.</p> <p><b>A2: Ensure clear title to state land proposed for development by producing title reports for state land.</b></p> <p><u>Target #1:</u> Provide title reports for approximately 400 parcels or tracts of state land proposed for oil and gas leasing or exploration.<br/> <u>Measure #1:</u> Number of title reports issued to support oil and gas leasing/exploration.</p> <p><u>Target #2:</u> Provide title reports for approximately 1,200 parcels of state land proposed for land sales, land lease, timber sales, and other development activities.<br/> <u>Measure #2:</u> Number of parcels affected by title reports prepared.</p> <p><b>A3: Facilitate the use and development of state land by preparing title documents (patents, deeds, etc.) to transfer title of state land to private individuals.</b></p> <p><u>Target #1:</u> Issue conveyance documents to all individuals (estimated 650) who have completed their purchase, municipalities once land is surveyed, and other parties.<br/> <u>Measure #1:</u> Number of conveyance documents issued.</p> <p><b>A4: Defend State's title to the land it owns, including land under tidal and navigable waters, and assert public's access rights.</b></p> <p><u>Target #1:</u> Review approximately 1,500 Native Allotment actions and 300 BLM ANCSA conveyance and ANCSA Section 17(b) access documents affecting state land and ensure that state land and public access issues are adequately dealt with.<br/> <u>Measure #1:</u> Number of BLM decision documents reviewed.</p> <p><u>Target #2:</u> Issue navigability determinations for 100% of those requested for disposal and use authorization purposes.<br/> <u>Measure #2:</u> Percentage of new navigability determination requests issued.</p> <p><u>Target #3:</u> Submit Recordable Disclaimers of Interest applications for 20 rivers and lakes combined to defend state title of the submerged land acquired at statehood.<br/> <u>Measure #3:</u> Number of rivers and lakes for which DNR has applied for disclaimers.</p> |
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|--|--|
|  | <p><b>A5: Maintain records of State Ownership.</b></p> <p><u>Target #1:</u> Protect all existing state land title documents and establish files for all new documents.<br/> <u>Measure #1:</u> Number of files maintained.</p> |
|--|--|

| <b>Major Activities to Advance Strategies</b>  |   |
|--|---|
| <ul style="list-style-type: none"> <li>• Review 400 BLM and other decisions regarding land transfers.</li> <li>• Negotiate conditions included in title documents.</li> <li>• Accept and record title documents for state.</li> <li>• Review and accept 150 title documents for the OSL program.</li> <li>• Prepare title reports for state oil and gas lease sales.</li> <li>• Prepare title reports for state land sales and leases.</li> <li>• Prepare title reports for state timber sales.</li> </ul> | <ul style="list-style-type: none"> <li>• Prepare title report for all other state land actions.</li> <li>• Issue title documents for lands transferred out of state ownership (i.e. to municipalities and individuals)</li> <li>• Review all Federal Native Allotment actions that may impact state land title or public use and access.</li> <li>• Review all Federal land conveyance documents (primarily under ANCSA) to ensure that public access is reserved.</li> <li>• Support litigation in defense of state's land title.</li> <li>• Create, file, maintain and monitor use of files, all state land records (approx. 200,000 documents).</li> </ul> |

| <b>FY2009 Resources Allocated to Achieve Results</b> |  |           |    |           |   |              |           |
|--|--|-----------|----|-----------|---|--------------|-----------|
| <p><b>FY2009 Component Budget: \$2,176,400</b></p>   | <p><b>Personnel:</b></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding-left: 20px;">Full time</td> <td style="text-align: right;">27</td> </tr> <tr> <td style="padding-left: 20px;">Part time</td> <td style="text-align: right;">0</td> </tr> <tr> <td style="padding-left: 20px;"><b>Total</b></td> <td style="text-align: right; border-top: 1px solid black;"><b>27</b></td> </tr> </table> | Full time | 27 | Part time | 0 | <b>Total</b> | <b>27</b> |
| Full time  | 27   |           |    |           |   |              |           |
| Part time  | 0  |           |    |           |   |              |           |
| <b>Total</b>   | <b>27</b>  |           |    |           |   |              |           |

**Performance Measure Detail**

**A: Result - Acquire, defend, and maintain clear title to the land promised at Statehood.**

**Target #1:** Each year, receive an additional 2,000,000 acres of the remaining entitlement of state land.  
**Measure #1:** Acres of state land entitlement received.

**Number of acres received**

| Year | # Acres   | Percent of Target |
|------|-----------|-------------------|
| 2002 | 252,451   | 101%              |
| 2003 | 473,625   | 189%              |
| 2004 | 102,695   | 41%               |
| 2005 | 29,009    | 12%               |
| 2006 | 1,489,618 | 148%              |
| 2007 | 2,003,879 | 200%              |

**Analysis of results and challenges:** FY07 Result: The effects of Public Law 108-452, the Alaska Land Transfer Acceleration Act (ALTAA), passed December 10, 2004, are reflected in acres conveyed to the state in FY07.

To date the state has acquired approximately 94.3 million acres of the 106 million acres to which it is entitled overall as a result of statehood and various other federal laws. This leaves an outstanding balance of approximately 11.7 million acres that the state has yet to receive. It is anticipated that acres conveyed in FY08 will continue to meet or exceed the 2 million acres conveyed in FY07. Two million acres a year represents

approximately 17% of the states remaining unconveyed entitlement.

For FY08 we raised the target to 2,000,000 acres. Therefore the table shown reflects the previous 1,000,000 acre target.

**Target #2:** Obtain 5 new Recordable Disclaimers of Interest from BLM to clear the cloud of title on state owned submerged land.

**Measure #2:** Number of Recordable Disclaimers of Interest issued by BLM.

#### Number of RDIs issued

| Year | YTD | # Rivers Included | # Lakes Included |
|------|-----|-------------------|------------------|
| 2004 | 1   | 5                 | 0                |
| 2005 | 3   | 3                 | 2                |
| 2006 | 5   | 9                 | 7                |
| 2007 | 1   | 0                 | 1                |

**Analysis of results and challenges:** In 2004, the Bureau of Land Management created an administrative process to file applications to receive Recordable Disclaimers of Interest in order to lift the cloud of title on the state-owned lands under navigable waters. By receiving the Recordable Disclaimers, the State achieves a low cost administrative equivalent of a quiet title action, clarifying title to lands promised under the Alaska Statehood Act, the Submerged Lands Act, and the Equal Footing Doctrine. A single quiet title action in can easily exceed \$500,000. A Recordable Disclaimer costs under \$25,000.

During FY07, DNR worked closely with BLM to provide supporting information for all applications submitted. Final issuance of the RDIs applied for in FY 07 fell short of our fiscal year target. The results of that FY 07 work will come to fruition in early FY08 with the pending RDIs for the Yukon Kuskokwim Portage (9 water bodies), and the Kantishna System (4 water bodies). These water bodies are currently published on the Federal Register. In addition, initial research and meetings occurred with BLM on a proposed application (Ugashik – 4 water bodies), which will follow the BLMs more stringent requirements. In FY07 DNR and BLM entered into an assistance agreement that sets up a process for the initial identification, document retrieval, land status, and research, for 68 water bodies in the Kuskokwim Delta area. It is anticipated that this work will lead to the completion of a numerous regional reports, which can be utilized for justification for RDI applications in FY08.

#### A1: Strategy - Acquire Land

**Target #1:** Each year, receive an additional 2,000,000 acres of the remaining entitlement of state land.

**Measure #1:** Acres of state land entitlement received.

#### Number of acres received

| Year | # Acres acquired | Percent of Target |
|------|------------------|-------------------|
| 2002 | 252,451          | 101%              |
| 2003 | 473,625          | 189%              |
| 2004 | 102,695          | 41%               |
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To date the state has acquired approximately 94.3 million acres of the 106 million acres to which it is entitled overall as a result of statehood and various other federal laws. This leaves an outstanding balance of approximately 11.7 million acres that the state has yet to receive. It is anticipated that acres conveyed in FY08 will continue to meet or exceed the 2 million acres conveyed in FY07. Two million acres a year represents approximately 17% of the states remaining unconveyed entitlement.

For FY08 we raised the target to 2,000,000 acres. Therefore the table shown reflects the previous 1,000,000 acre target.

**Target #2:** Acquire approximately 5,000 acres of land for public purposes, through purchases, donations, exchanges or other means authorized under statute under the Other State Lands and Limited State Holdings programs.

**Measure #2:** Total number of acres of land acquired for public purposes not part of original statehood entitlement.

| Year | YTD     |
|------|---------|
| 2002 | 116,216 |
| 2003 | 262,890 |
| 2004 | 1,674   |
| 2005 | 8,185   |
| 2006 | 4,256   |
| 2007 | 13,670  |

**Analysis of results and challenges:** OSL: 13,643 acres  
LSH: 27 acres

The Department has the authority to acquire lands for public purposes where appropriate to further its mission, however, each package varies dramatically in the number of acres and staff time it will require to complete. A single package can result in the acquisition of 10,000 or more acres one year, or several packages processed with the same staff resources may result in significantly less than 5,000 acres. FY07 acres represent 33 separate transactions. The location and purpose intended for the lands are the primary criteria that drive how various acquisition opportunities are prioritized annually. The large numbers in FY02 & FY03 were due to Exxon Valdez Large Parcel Acquisitions.

## A2: Strategy - Ensure clear title to state land proposed for development by producing title reports for state land.

**Target #1:** Provide title reports for approximately 400 parcels or tracts of state land proposed for oil and gas leasing or exploration.

**Measure #1:** Number of title reports issued to support oil and gas leasing/exploration.

| Year | YTD |
|------|-----|
| 2002 | 384 |
| 2003 | 146 |
| 2004 | 565 |
| 2005 | 224 |
| 2006 | 193 |
| 2007 | 176 |

**Analysis of results and challenges:** Oil and Gas Lease Sale title reports for several areas of the state were delivered in FY07. Title reports were delivered for 44 Tracts North Slope Areawide, 13 Tracts Beaufort Sea Areawide, 1 Tract Alaska Peninsula, 45 Tracts Cook Inlet Areawide. In addition, reports were delivered on 26 Augustine Island and 15 Mt. Spurr proposed geothermal tracts.

**Target #2:** Provide title reports for approximately 1,200 parcels of state land proposed for land sales, land lease, timber sales, and other development activities.

**Measure #2:** Number of parcels affected by title reports prepared.

| Year | YTD   |
|------|-------|
| 2002 | 1,310 |
| 2003 | 556   |
| 2004 | 621   |
| 2005 | 648   |
| 2006 | 788   |
| 2007 | 920   |

**Analysis of results and challenges:** Numbers reported for FY02 through FY05 reflect the number of title reports requested. It was necessary to change how this item was tracked beginning in FY06 because each title report can, and usually does, affect more than one parcel. In FY07, 357 reports were issued affecting 920 parcels.

**A3: Strategy - Facilitate the use and development of state land by preparing title documents (patents, deeds, etc.) to transfer title of state land to private individuals.**

**Target #1:** Issue conveyance documents to all individuals (estimated 650) who have completed their purchase, municipalities once land is surveyed, and other parties.

**Measure #1:** Number of conveyance documents issued.

| Year | YTD |
|------|-----|
| 2002 | 287 |
| 2003 | 457 |
| 2004 | 585 |
| 2005 | 466 |
| 2006 | 449 |
| 2007 | 389 |

**Analysis of results and challenges:** Staff vacancies in the Land Sales Unit and Realty Services during FY07 have reduced the number of conveyance issued by the Realty Services Section. An additional 200 requests for title are pending.

**A4: Strategy - Defend State's title to the land it owns, including land under tidal and navigable waters, and assert public's access rights.**

**Target #1:** Review approximately 1,500 Native Allotment actions and 300 BLM ANCSA conveyance and ANCSA Section 17(b) access documents affecting state land and ensure that state land and public access issues are adequately dealt with.

**Measure #1:** Number of BLM decision documents reviewed.

| Year | YTD  |
|------|------|
| 2002 | 2959 |
| 2003 | 2270 |
| 2004 | 2155 |
| 2005 | 1371 |
| 2006 | 2086 |
| 2007 | 1613 |

**Analysis of results and challenges:** FY07 Results:  
 Native Allotment Decisions: 1,033, 70% of target  
 ANCSA Conveyance and 17(b) decisions: 580, 190% of target

**Target #2:** Issue navigability determinations for 100% of those requested for disposal and use authorization purposes.

**Measure #2:** Percentage of new navigability determination requests issued.

**Percentage of Determinations Issued**

| Year | # Requests Received | # Issued | YTD |
|------|---------------------|----------|-----|
| 2004 | 15                  | 7        | 46% |
| 2005 | 20                  | 10       | 50% |
| 2006 | 28                  | 21       | 75% |
| 2007 | 41                  | 27       | 66% |

**Analysis of results and challenges:** Navigability Unit received 41 navigability determinations requests from private individuals, state agencies and other organizations. This is a 46% increase in requests over the previous year. There was no corresponding increase in staff to address the increased workload. The navigability unit issued responses to 27 of these requests.

Of the 41 total requests received, 27 of these were requests from state agencies related to resource management or sales. The unit responded to 19 of these requests. The remaining requests were submitted to resolve title specific questions which impacted upland owners, access and use of the waters and submerged lands. Some requests required extensive title research and formal navigability determinations; others are handled with emails summarizing existing information in the files.

**Target #3:** Submit Recordable Disclaimers of Interest applications for 20 rivers and lakes combined to defend state title of the submerged land acquired at statehood.

**Measure #3:** Number of rivers and lakes for which DNR has applied for disclaimers.

**YTD RDI Applications Submitted**

| Year | # RDI Appl'n Submitted | # Rivers Included | # Lakes Included |
|------|------------------------|-------------------|------------------|
| 2004 | 6                      | 10                | 11               |
| 2005 | 7                      | 6                 | 2                |
| 2006 | 24                     | 19                | 12               |
| 2007 | 0                      | 0                 | 0                |

**Analysis of results and challenges:** In FY07, the division focused on getting the federally funded assistance agreement research process underway. This research project shifts more work up front, providing a basis where

many applications can be submitted together for a large area, with the expected substantial decrease in approval time by BLM. Many water bodies within the delta area of the Kuskokwim Region were researched, 65 water bodies had detailed land status information researched and have been reviewed by the BLM/State team. The remainder of the Kuskokwim Region water bodies are under review now, and the State navigability team (ADFG/DNR) anticipates that many of the prioritized water bodies will move to completed reports for consideration as RDI application candidates. In conclusion, the anticipated lag time from implementing the new process specified in the assistance agreement has resulted in a slowdown of applications in FY 07, but should yield increased results in future years.

Outside the Federally funded assistance agreement, the Ugashik system is one of several river systems being researched in preparation for potential RDI applications.

**A5: Strategy - Maintain records of State Ownership.**

**Target #1:** Protect all existing state land title documents and establish files for all new documents.

**Measure #1:** Number of files maintained.

| Year | YTD     |
|------|---------|
| 2002 | 199,083 |
| 2003 | 199,183 |
| 2004 | 199,500 |
| 2005 | 199,234 |
| 2006 | 199,257 |
| 2007 | 199,300 |

**Analysis of results and challenges:** This does not cumulate by quarter so it will be reported yearly.

Activity for entitlement lands acquired drove the majority of the workload. This activity occurred within existing files. The minor increase in the number of files is associated primarily with new files initiated with lands acquired under OSL/LSH programs.

**Key Component Challenges**

**1. Accelerated Federal Land Transfer Program also referred to as the BLM 2009 Project.** The US Bureau of Land Management (BLM) intends to continue the increased rate of land transfers to the state. The accelerated rate of transfer was initiated in 2004, with an ambitious goal of largely fulfilling land transfers to ANCSA Corporations, Native Allottees and the state by 2009. This has significantly increased the annual workload of the DNR Realty Services Section.

DNR’s focus during FY08 has continued to be the simultaneous review of ANCSA Corporation conveyances and draft conveyances to the state consistent with the land selections previously identified in the Ownership Priority Lists (OPL’s) created independently by the state and the various Corporations. The state’s land selection priorities are used to rank the land the state wishes to acquire from the federal government under its remaining statehood entitlements. BLM transfers land to the state based on this priority list. Because approximately eight million acres of lands selected by the state are dual selected by the ANCSA Corporations, the state must ensure that the final revised OPL reflects several million more acres than the state will actually receive. Some prioritized state selections will be rejected for those lands that are ultimately conveyed to the ANCSA Corporations. Minor adjustments have been made to other state selection priorities to address gaps and omissions in the final land ownership pattern.

The BLM’s land transfer program continues to be significantly complicated by the number of overlapping claims filed by the state, ANCSA Corporations, and Native Allottees. How these competing priorities are resolved is largely driven by the federal laws that govern land transfers. As a result, much of the state’s FY 08 and FY 09 efforts regarding the accelerated land transfer program will continue to relate to three pronged responses to accelerated Native Allotment adjudication, ANCSA conveyances and state conveyances.

In FY08, the state is responding to significantly increased numbers of BLM conveyance decisions for the benefit of ANCSA villages and regional corporations, decisions on easements and navigable waters, and requests for

reconveyance of Native Allotments.

In the five years immediately prior to the passage of the Alaska Land Transfer Acceleration Act (ALTAA), BLM had transferred to DNR an average of 50,000 acres per year. During FY07, new acres conveyed to the state increased to more than 2 million acres.

ANCSA Corporations have a December 2007 deadline under the ALTAA Act to finalize their final land entitlement selection priorities. As final ANCSA Corporation land patterns emerge residual land selection conflicts will be resolved allowing BLM to accelerate conveyances to the state to more than 3 million acres per year, representing up to a 60-fold increase from pre-BLM 2009 conveyance volumes. Much of the land that remains for transfer to the state is high value land that is subject to some type of encumbrance or withdrawal. These lands are more difficult and time consuming to adjudicate and resolve.

Two key elements contributing to the success of the accelerated federal land transfer program are changes to federal laws and increased federal funding for Alaska land transfer programs. Federal law (Public Law 108-452) that was signed into law on December 10, 2004 provided tools to resolve some of the remaining procedural obstacles and allowed for streamlining other aspects of the land transfer process. Funding for the state to participate in this effort is also critical to the success of this ambitious conveyance acceleration project. The federal government recognized this need and has continued to provide funding so that the state can maintain staff increases to respond to the rising workload of this comprehensive conveyance acceleration project. However, that federal funding was less than anticipated resulting in the need for a state CIP budget request (300.0) which was approved in the FY07 budget. It is anticipated that this state funding will continue to be required in order to maintain the state's level of response to the accelerated land transfers as volume coming in from BLM increases in FY08 and FY09. BLM will not complete its land transfers to ANCSA corporations and the state by the 2009 deadline and federal funding for the program in FFY10 is uncertain.

**2. Review of Easements under Sec. 17(b) of ANCSA.** The Realty Services Section and Public Access and Defense Unit are actively involved in the identification of easements that are reserved in federal conveyances to Native corporations. These easements provide access across private (ANCSA) land to public lands and public waters. There are three potential issues:

(A) Identification of New 17(b) Easements. The state needs to review all ANCSA conveyances to ensure that BLM adequately identifies and reserves easements for access to state and federal public lands and waters. The state is often the only advocate for the public's access rights in the BLM land transfer process. This requires review of all proposed ANCSA conveyances and negotiation with BLM to ensure that easements are reserved.

(B) Management of 17(b) Easements. These easements are reserved to the United States. The federal Interior Department is pressuring the state to assume management of reserved easements that provide access to state lands and public waters. Management includes identifying the location of the easement on the ground, signing the easement to identify it to the public, explaining the allowed uses to the public, cleaning up trash, maintaining the easement through brushing and fixing muddy spots, maintaining bridges and culverts, and resolving trespass. The state's position is that the easements are reserved to the United States and it is their responsibility to manage these easements. However, the state recognizes that the number of access disputes the public is experiencing related to this project will continue to steadily increase with the BLM 2009 acceleration. Expectations upon the state's easement managers to resolve real time public access problems (such as blocked easements) associated with these easements is expected to steadily increase.

(C) Interruption or Termination of 17(b) Easements without dedication of alternative routes. As a result of BLM 2009 federal streamlining measures, prior state efforts to secure 17(b) easements across ANCSA lands are being negatively impacted by accelerated Native Allotment transfers. BLM is, in some cases, terminating or interrupting the previously agreed upon trail through the allotment certification process before any agreement is reached to ensure an alternative location around the allotment. However, the state's ability to adequately respond to these access disruptions within the allowable time frames has been severely strained by the number of requests submitted overall for review associated with BLM 2009.

**3. Accelerated Municipal Entitlement Project.** During FY07, Title Acquisition and Defense has continued to devote staff resources to the preparation of title reports for the benefit of the Municipal Entitlement Unit. These reports are necessary to ensure that the state can approve municipal land selections. As more departmental projects with Realty Services impact are brought on line, the ability of TAD staff to absorb the workload associated with the

Accelerated Municipal Entitlement project continues to be severely strained. A backlog of approximately 27 title reports affecting large acreage municipal entitlement selection's currently exists.

**4. University Land Conveyance.** Conveyance of approximately 250,000 acres of State Land to the University of Alaska to supplement the University's federal land grant was approved in FY06 under CSHB 130. In FY07, the contractor DNR hired has completed much of the necessary title research and document preparation work associated with this legislation. Title Acquisition and Defense staffs a project manager to oversee the work of the contractor to ensure that the title review and legal description preparation for these conveyances meets DNR standards. Emphasis during FY08 is focused on reviewing the draft products produced by the contractor as the unique details associated with each parcel are examined in detail. The University has received draft conveyance documents to review on 38 parcels representing approximately 72,000 acres. The University has accepted and recorded transfer to 9 of these parcels and provided comments back to DNR on 22 parcels. Because the DNR contract for title and document preparation services expires in December 2007, emphasis for the remainder of FY08 will be to review and accept the contractor's products for the remaining 15 parcels representing approximately 178,000 acres. Once that goal has been met, DNR can review and respond to University comments and finalize the remaining documents.

**5. The School Trust Lands** valuation and litigation is part of the Title Defense Project. The charge of a breach of trust is part of a larger litigation concerning funding of rural schools filed as *Kasayulie v. State of Alaska* Case No. 3AN-97-3782 CIV. The court ruled on the plaintiffs' Motion for Partial Summary Judgment on Breach of the School Lands Trust, finding two breaches of trust (1) the redesignation of school lands in 1978, and (2) the failure to value school lands in 1978. This case remains in litigation status. Resolution will require significant staff work, in a manner acceptable to the court once a course of action has been agreed upon by the parties and approved by the court. DNR staff work has been on hold pending further direction from the court.

**6. Land Disposals.** The anticipated acceleration of the Land Disposal program from 200 parcels to 300 parcels occurred on schedule in FY07 and continued in FY08. This work is funded through the Land Sales and Municipal Entitlement Component of the DNR budget, however, the land disposal program competes with the other projects within the Realty Services Section for title reports, issuance of deeds, and other essential services. With the number of new and expanded projects brought online by the department during FY06 and FY07, the Title Acquisition and Defense component anticipates that continuing to meet the land disposal targets will be a challenge. Additional staff brought on in FY07 have kept title reporting needs current, but backlogs continue to exist in the preparation of conveyance documents and increased demands for resolving title problems before sale have added to the title defense workload for the section overall.

**7. Acquisition and Land Exchanges.** The Title Acquisition and Defense component continues to receive approximately 30 packages annually proposing that the state acquire either fee ownership, an easement, or a combination of the two for the benefit of any state agency that does not have direct land acquisition authority. DNR serves as the closing agent performing due diligence in the form of evaluating the primary components of baseline documentation, namely the title report and associated documents, hazardous material reports, appraisal and review appraisal, survey determinations, and any other document unique to each transaction. Staff identify defects in the above items and work to ensure that they are resolved or removed before the state takes title. Staff also draft documents as needed, in consultation with the Attorney General's Office to ensure that the details involved in each transaction have been adequately addressed. The nature and complexity of these transactions continues to become progressively more laborious and time consuming to adjudicate as proposals are submitted with a higher number of unresolved issues and tied to multiple restricted federal grant funding sources to finance the transaction. Restricted funds generally impose additional stewardship expectations above and beyond general land management requirements. Transactions as recently as three years ago could be completed in an average of three to five months. Current timelines for completion are now averaging six to twelve months. Staff allocated to work on these transactions has increased from approximately two full time positions to staff resources equivalent to four full time positions.

Land exchanges are also becoming increasingly popular as a land transfer tool. Each exchange represents two or more transactions in one in that state lands are being disposed of on one side and acquired on the other. The due diligence workload and document preparation requires are approximately doubled to accomplish each exchange regardless of whether lands are presented as donations or proposed for purchase.

## Significant Changes in Results to be Delivered in FY2009

**1. Accelerated Federal Land Transfer Project (BLM 2009 Project).** In FY09, the state will be responding to significantly more federal decisions to transfer land to ANCSA Corporations, Native Allottees and the state as BLM

accelerates its land transfers. This increased effort will affect all aspects of title acquisition section as well as navigability, submerged lands and upland access title defense issues. The state continues to work with BLM on procedural modifications as the workload accelerates and additional issues arise. Efforts taken continue the objective of avoiding the conveyance problems of the past while ensuring that the Native Allotment and ANCSA Corporation decisions preserve the state's ability to receive clear, surveyed title to as much land as possible between now and the end of FFY 2009. Specific emphasis during FY09 will be on resolving the remaining Native Allotment issues affected existing state ownership, ensuring public access across the lands conveyed to ANCSA Corporations as their remaining entitlements are finalized, negotiating with ANCSA corporations to resolve competing land selections, and ensuring that the state receives clear and proper title as BLM increase land conveyances to the state . For more information, see description under "Key Component Challenges."

**2. Navigability Disputes.** In FY09, the Division expects to apply to BLM for Recordable Disclaimers of Interest for approximately 25 to 50 Navigable Waterbodies. For more information, see Navigability and RS 2477 Component.

**3. University Land Conveyance.** By the end of FY08, DNR will have issued signed documents, or finalized drafts we are prepared to execute upon acceptance by the University, for all parcels that are currently eligible for conveyance. In FY09, the Division expects to complete most or all of the recordkeeping updates necessary to reflect the results of the University Land Conveyance.

## Major Component Accomplishments in 2007

In addition to meeting its basic mission requirements the following special assignments were completed in FY07:

1. Land Transferred into state ownership – in FY07, the state received over 2 million acres from the federal government under its land grants.
2. Land Transferred out of state ownership – in FY07, DNR issued 389 deeds to transfer approximately 62,647 acres from state to private, municipal, and other ownerships. DNR also approved numerous additional land transfers (such as for municipal entitlements) but deeds cannot be issued until the land is surveyed.

## Statutory and Regulatory Authority

The Title Component operates under the following statutory authority:

Statutory  
 AS38.04.055  
 AS38.05.020(b)(8)  
 AS38.05.030(c) and (d)  
 AS38.05.035(a)(12)  
 AS38.05.035(b)(9)  
 AS38.05.035(e)(6)  
 AS38.05.127(a)(12)  
 AS38.50.090  
 AS38.50.150  
 AS38.95.210

### Contact Information

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**Title Acquisition & Defense  
Component Financial Summary**

*All dollars shown in thousands*

|   | FY2007 Actuals | FY2008<br>Management Plan | FY2009 Governor |
|---|----------------|---------------------------|-----------------|
| <b>Non-Formula Program:</b>               |                |                           |                 |
| <b>Component Expenditures:</b>            |                |                           |                 |
| 71000 Personal Services                   | 1,717.8        | 2,033.5                   | 2,045.1         |
| 72000 Travel                              | 0.0            | 9.2                       | 9.2             |
| 73000 Services                            | 103.1          | 101.0                     | 97.0            |
| 74000 Commodities                         | 32.9           | 30.1                      | 25.1            |
| 75000 Capital Outlay                      | 0.0            | 0.0                       | 0.0             |
| 77000 Grants, Benefits                    | 0.0            | 0.0                       | 0.0             |
| 78000 Miscellaneous                       | 0.0            | 0.0                       | 0.0             |
| <b>Expenditure Totals</b>                 | <b>1,853.8</b> | <b>2,173.8</b>            | <b>2,176.4</b>  |
| <b>Funding Sources:</b>                   |                |                           |                 |
| 1004 General Fund Receipts                | 927.0          | 1,333.5                   | 1,299.2         |
| 1007 Inter-Agency Receipts                | 48.7           | 152.2                     | 162.6           |
| 1061 Capital Improvement Project Receipts | 878.1          | 688.1                     | 714.6           |
| <b>Funding Totals</b>                     | <b>1,853.8</b> | <b>2,173.8</b>            | <b>2,176.4</b>  |

**Estimated Revenue Collections**

| Description                          | Master<br>Revenue<br>Account | FY2007 Actuals | FY2008<br>Management Plan | FY2009 Governor |
|--------------------------------------|------------------------------|----------------|---------------------------|-----------------|
| <b>Unrestricted Revenues</b>         |                              |                |                           |                 |
| None.                                |                              | 0.0            | 0.0                       | 0.0             |
| <b>Unrestricted Total</b>            |                              | <b>0.0</b>     | <b>0.0</b>                | <b>0.0</b>      |
| <b>Restricted Revenues</b>           |                              |                |                           |                 |
| Interagency Receipts                 | 51015                        | 48.7           | 152.2                     | 162.6           |
| Capital Improvement Project Receipts | 51200                        | 878.1          | 688.1                     | 714.6           |
| <b>Restricted Total</b>              |                              | <b>926.8</b>   | <b>840.3</b>              | <b>877.2</b>    |
| <b>Total Estimated Revenues</b>      |                              | <b>926.8</b>   | <b>840.3</b>              | <b>877.2</b>    |

**Summary of Component Budget Changes  
From FY2008 Management Plan to FY2009 Governor**

*All dollars shown in thousands*

|  | <u>General Funds</u> | <u>Federal Funds</u> | <u>Other Funds</u> | <u>Total Funds</u> |
|--|----------------------|----------------------|--------------------|--------------------|
| <b>FY2008 Management Plan</b>  | <b>1,333.5</b>       | <b>0.0</b>           | <b>840.3</b>       | <b>2,173.8</b>     |
| <b>Adjustments which will continue<br/>current level of service:</b> |                      |                      |                    |                    |
| -ETS Chargeback Redistribution                                       | 1.5                  | 0.0                  | 0.0                | 1.5                |
| -FY 09 Bargaining Unit Contract<br>Terms: General Government Unit    | 46.7                 | 0.0                  | 36.9               | 83.6               |
| <b>Proposed budget decreases:</b>                                    |                      |                      |                    |                    |
| -Fourth Year Fiscal Note: Univ<br>Lands FSSLA2005 (HB130)            | -82.5                | 0.0                  | 0.0                | -82.5              |
| <b>FY2009 Governor</b>   | <b>1,299.2</b>       | <b>0.0</b>           | <b>877.2</b>       | <b>2,176.4</b>     |

**Title Acquisition & Defense  
Personal Services Information**

| Authorized Positions |           | Personal Services Costs |                                  |                  |
|----------------------|-----------|-------------------------|----------------------------------|------------------|
| <u>FY2008</u>        |           |                         |                                  |                  |
| <u>Management</u>    |           | <u>FY2009</u>           |                                  |                  |
| <u>Plan</u>          |           | <u>Governor</u>         |                                  |                  |
| Full-time            | 28        | 27                      | Annual Salaries                  | 1,306,101        |
| Part-time            | 0         | 0                       | COLA                             | 74,605           |
| Nonpermanent         | 0         | 0                       | Premium Pay                      | 0                |
|                      |           |                         | Annual Benefits                  | 756,784          |
|                      |           |                         | <i>Less 4.32% Vacancy Factor</i> | (92,390)         |
|                      |           |                         | Lump Sum Premium Pay             | 0                |
| <b>Totals</b>        | <b>28</b> | <b>27</b>               | <b>Total Personal Services</b>   | <b>2,045,100</b> |

**Position Classification Summary**

| Job Class Title           | Anchorage | Fairbanks | Juneau   | Others   | Total     |
|---------------------------|-----------|-----------|----------|----------|-----------|
| Administrative Clerk III  | 1         | 0         | 0        | 0        | 1         |
| Land Surveyor II          | 1         | 0         | 0        | 0        | 1         |
| Natural Resource Mgr I    | 4         | 0         | 0        | 0        | 4         |
| Natural Resource Mgr II   | 2         | 0         | 0        | 0        | 2         |
| Natural Resource Mgr III  | 2         | 0         | 0        | 0        | 2         |
| Natural Resource Spec I   | 5         | 0         | 0        | 0        | 5         |
| Natural Resource Spec II  | 6         | 2         | 0        | 0        | 8         |
| Natural Resource Spec III | 2         | 0         | 0        | 0        | 2         |
| Natural Resource Tech II  | 2         | 0         | 0        | 0        | 2         |
| <b>Totals</b>             | <b>25</b> | <b>2</b>  | <b>0</b> | <b>0</b> | <b>27</b> |